

The Honorable David G. Estudillo

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

CARL BERKELHAMMER,  
Individually and On Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

FUNKO, INC; BRIAN MARIOTTI;  
RUSSELL NICKEL; KEN  
BROTMAN; GINO DELLOMO;  
CHARLES DENSON; DIANE  
IRVINE; ADAM KRIGER;  
RICHARD McNALLY; GOLDMAN,  
SACHS & CO.; J.P. MORGAN  
SECURITIES LLC; MERRILL  
LYNCH, PIERCE, FENNER &  
SMITH INCORPORATED; PIPER  
JAFFRAY & CO.; JEFFERIES LLC;  
STIFFEL, NICOLAUS & COMPANY,  
INCORPORATED; BMO CAPITAL  
MARKETS CORP.; SUNTRUST  
ROBINSON HUMPHREY, INC.,  
ACON INVESTMENTS, L.L.C.; and  
FUNDAMENTAL CAPITAL, LLC,

Defendants.

NO. 2:18-cv-00812-DGE

**STIPULATED MOTION FOR  
EXTENSION OF TIME AND  
[PROPOSED] ORDER;  
NOTE ON MOTION  
CALENDAR:  
FEBRUARY 7, 2023**

1           The Parties hereby file this stipulated motion pursuant to LCR 7(d)(1) and  
2 10(g) to request that the Court extend the deadlines set on December 22, 2022  
3 [Dkt. 89] for stipulated briefing schedule on Defendants’ anticipated motion to  
4 dismiss [Dkt. 88]. The Parties respectfully submit that good cause exists to extend  
5 the deadline while the Parties explore whether a continuation of the stay is  
6 beneficial. In support of their Stipulated Motion, the Parties state as follows:

7           1. Pursuant to the Court’s December 22, 2022 order [Dkt. 89] (the  
8 “December 22 Order”), Lead Plaintiff Carl Berkelhammer and Defendants Funko,  
9 Inc., Brian Mariotti, Russell Nickel, Ken Brotman, Gino Dellomo, Charles Denson,  
10 Diane Irvine, Adam Kriger, Richard McNally, Goldman, Sachs & Co. (n/k/a  
11 Goldman, Sachs & Co. LLC), J.P. Morgan Securities LLC; Merrill Lynch, Pierce,  
12 Fenner & Smith Incorporated, Piper Jaffray & Co., Jeffries LLC, Stifel, Nicolaus  
13 & Company, Inc., BMO Capital Markets Corp., and Suntrust Robinson Humphrey,  
14 Inc. (n/k/a Truist Securities, Inc.), ACON Investments, L.L.C., and Fundamental  
15 Capital, LLC (“Defendants,” and collectively with Lead Plaintiff, the “Parties”)  
16 write jointly to request an extension of time to the briefing schedule for  
17 Defendants’ anticipated motion to dismiss:

18           2. In order to resolve these pending claims, and substantively identical  
19 claims that are pending in Washington Superior Court, the Parties engaged a  
20 mediator and scheduled a mediation for February 14, 2023. However, Plaintiffs in  
21 the Washington State court action requested to postpone the mediation, and it has  
22 been rescheduled for May 16, 2023.

23           3. The Parties continue to believe that briefing on this motion to dismiss  
24 would be an inefficient use of the Parties’ and the Courts’ resources while the  
25 mediation is pending.

26           4. For this reason, the parties respectfully submit that good cause exists  
27 for this limited extension of time. The Parties therefore stipulate to extend the  
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1 deadline for a request to extend Defendants' motion to dismiss filing deadline from  
2 March 13, 2023 to June 14, 2023, with Plaintiff's opposition to Defendants'  
3 motion to dismiss due extended from April 26, 2023 to July 27, 2023, and  
4 Defendants' reply deadline extended from May 17, 2023 to August 18, 2023.

5 WHEREFORE, the Parties jointly ask the Court to extend the Parties'  
6 deadlines as set forth above.

7 IT IS SO STIPULATED.

8 RESPECTFULLY SUBMITTED AND DATED this 7th day of February,  
9 2023.

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14 [SIGNATURES OF COUNSEL ON FOLLOWING PAGE]  
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Counsel for all parties has consented to the content of this document and authorized the use of their electronic signatures:

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